

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

**GUILLERMO ALDACO, JR.,**

**Defendant.**

**CASE NO. 8:99CR16**

## TENTATIVE FINDINGS

The Court has received the Second Revised Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 107). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to ¶¶ 29, now 36 (dangerous weapon enhancement), and 31, now 38 (role). The Defendant also objects to two additional paragraphs; since the objections were filed the PSR has been revised, and the Court is uncertain as to the paragraph numbers in the revised PSR.

**Paragraph 36 - Dangerous Weapon Enhancement**

The objection will be heard at sentencing. The burden is on the government by a preponderance of the evidence.

### ***Paragraph 38 - Role***

The objection will be heard at sentencing. The burden is on the government by a preponderance of the evidence.

### ***Additional Objections***

These objections are tentatively denied. Although the Court is uncertain which paragraphs are objected to, the information objected to does not affect the sentencing guideline calculation.

IT IS ORDERED:

1. The Defendant's Objections to ¶¶ 36 (dangerous weapon enhancement) and 38 (role) of the Presentence Investigation Report (Filing No. 107) will be heard at sentencing, and otherwise the Court's tentative finding is that the objections are denied;
2. If the parties need more than 15 minutes for the sentencing hearing, they should immediately contact Edward Champion and reschedule the hearing;
3. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;
4. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
5. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and
6. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 6<sup>th</sup> day of March, 2007.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge